

APPLICATION SERIAL NO. 88375893

MARK: LA

REFERENCE/DOCKET NO: LCA-003TM

RESPONSE TO OFFICE ACTION

SEARCH RESULTS

Applicant appreciates the Examiner's indication that a search has been completed of the Office's database of registered and pending marks and no conflicting marks were found that would bar registration under Trademark Act Section 2(d). TMEP §704.02; see 15 U.S.C. §1052(d).

SPECIMEN – PARTIAL

The Office has refused registration "because the specimen does not show the applied-for mark in use in commerce in International Class 36." In particular, the Office alleges that

...although the submitted specimen contains the applied-for mark, it does not demonstrate that applicant provides healthcare benefit consultation or information pertaining to government financial assistance programs. As such, the submitted specimen does not demonstrate use of the mark in commerce in connection with the applied-for services in International Class 36.

Applicant respectfully disagrees and traverses this rejection. In this respect, Applicant respectfully points out the following text at the bottom of the specimen submitted with the application filing:

We also provide in-office consultations, relocations services, healthcare advocacy, long-term care insurance review, and creativity coaching. [Learn more](#) about how these services can help your family.

However, solely to expedite prosecution, Applicant provides a different specimen (a verified “substitute” specimen) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the services identified in the application or amendment to allege use. Applicant has provided the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.”

AMENDMENT TO THE IDENTIFICATION OF SERVICES

The Office has alleged that “...the wording used to describe many of the applied-for goods needs clarification because it is indefinite, overbroad, or contains vague wording that must be clarified. See 37 C.F.R. §2.32(a)(6); TMEP §1402.01. In particular, the Office has alleged that

The wording “providing non-medical in-home personal services for individuals including checking home condition, supplies and individual well-being, scheduling appointments, running errands, making safety checks, and providing on-line information related to these personal services” must amend the wording specified below to further clarify the nature of the services being provided, and further, the identification uses the open-ended term “including” and must be replaced with a definite term, such as “namely,” “consisting of,” “particularly,” or “in particular” to render the identification specific and all-inclusive. See 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03(a).

The wording “providing patient advocate services in the field of care management” is indefinite and must further specify the field in which applicant’s patient advocacy services are being offered.

Applicant respectfully disagrees and traverses this rejection. However, Applicant also appreciates the Office’s impressive efforts to advance prosecution with detailed suggestions. In this respect, and solely to expedite prosecution, Applicant has adopted most of the suggested identification of goods/services for International Class 45, as follows:

[Where the Office’s Suggested amendments still appear below in bold and suggested removal of language is in strikethrough typeface. However Applicant replaces the suggested language “being” with “namely” shown with underline.]

In Class 45:

“Providing advocacy and case management services to older and disabled persons, namely, coordinating and monitoring legal, physical, social and psychological care services and providing support in the nature of emotional support; bereavement consulting; case management services, namely, coordination of legal, social and psychological services for elderly emotional support persons; in-home support services to senior persons, namely, life care management in the nature of the coordination of necessary services and personal care for older individuals; mediation of disputes regarding elders, their families, caregivers and stakeholders; providing case management services, namely, coordinating legal, medical, physical, social, personal care and psychological services for older and disabled persons; providing non-medical assisted living services for personal purposes in the nature of scheduling appointments, answering the telephone, checking messages, mail sorting, mail handling, mail receiving and secretarial and clerical services; providing non-medical in-home personal services for individuals **for assisting with daily living activities of disabled persons and the elderly including namely being** checking home condition, supplies and individual well-being, scheduling appointments, running errands, making safety checks, and providing on-line information related to these **non-medical in-home** personal services; providing patient advocate services in the field of **elderly and disabled persons** care management; providing patient advocate services to hospital patients and patients in long term care facilities; providing personal support services for caregivers, partners, wives and husbands of the chronically ill and/or disabled, namely, companionship and emotional support”

Given the amendment provided herewith, Applicant asserts that the goods and/or services have not been broadened or expanded beyond those in the original application. See 37 C.F.R. §2.71(a); TMEP §1402.06. As such, Applicant respectfully requests withdrawal of the rejection, and favorable reconsideration.

DESCRIPTION OF THE MARK

The Office has objected to the pending description of the mark, alleging that “Applicant must delete from the description any text that does not reference things appearing in the mark, such as interpretation, assessment, or analysis of the mark elements, or indications of how the mark is or is not used or intended to be used.” The Office has suggested the following description:

The mark consists of the intersecting letters “LA” in stylized font.

Applicant appreciates the suggested amendment and shall adopt it solely to expedite prosecution. As such, Applicant respectfully requests withdrawal of the rejection, and favorable reconsideration.

Applicant believes the application is now in condition for allowance. However, Applicant respectfully requests an interview should there be any remaining issues to be addressed to place this application in condition for allowance.

Respectfully submitted,

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